

MONDAY, February 1st 1858.

The Senate met pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The journal of Saturday was read and adopted.

A message was received from the House informing the Senate that the House had passed the following bills originating in that body.

A bill to relinquish the State taxes for the years 1858 and 1859, to certain counties, &c.,

A bill granting Charles Sheppard, one hundred and twenty-five dollars annually as a pension during his natural life.

A bill to change the name of certain towns therein named.

A bill for the relief of Elijah Moore.

A bill for the relief of J. B. and D. R. Wortham.

A bill for the relief of the heirs of Peter M. Mercer.

A bill for the relief of James A. Yeoman, and

A bill to incorporate the Philosophian society of Chappel Hill College.

And the following Senate bills :

A bill for the relief of Mandred Wood or his assigns.

A bill for the relief of the heirs D Rowlett, deceased.

A bill for the relief of George R. Rains, and

A bill for the relief of Harvey Trotter.

And the following Senate bills with amendments :

A bill to incorporate the Texas Baptist Publication society.

A bill to extend the time for locating and returning to the General Land Office, certificate No. 70, issued to the Buffalo Bayou, Brazos and Colorado Valley Railway Company &c, and

A bill to provide for the time of holding the Courts of the several counties in the 4th Judicial District.

And also the following bills originating in the House :

A bill for the relief of Robt. J. Calder.

A bill for the relief of Elizabeth Rice.

A bill for the relief of Isidro Gutierrez.

And the following bills originating in the Senate :

A bill to amend the 1st section of an act to create the county of Jack, and

A bill to legalize the location of the county site of Live Oak county.

Mr. Russell, chairman of the committee on engrossed bills reported :

A bill for the relief of W. B. Mauldin, and

A bill for the relief of John E. Mashburn, correctly engrossed.

Mr. Taylor of Houston, chairman of the committee on enrolled bills, reported.

A bill to create the counties of Concho, Wichita, Coleman, &c., correctly enrolled properly signed and this day presented to the Governor.

Mr. Paschal made the following reports:

The committee on Internal Improvements, have considered the House bill to incorporate the Mexican Gulf, Texas and Missouri Railroad Company, and instruct me to recommend its passage with the following amendments.

Strike out sections 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, 24, 25 and 26.

In line 4, section 27, strike out "thereafter," and add, to said section the following proviso:

"*Provided*, the rates and terms of transportation of freight or passage shall not exceed the rates established by the general laws of the State."

Add the following as an additional section.

That said Railroad shall be entitled to all the benefits of an act to encourage the construction of Railroads in Texas by donations of land, approved, January 30th, 1854, so long as said act shall continue in force.

And the following as an additional section.

That said Company shall be required to deposit with the Treasurer of the State, United States bonds or Treasury notes to the amount of \$50,000 00 as security for the construction of the 1st section of said road, or that said company shall have actually subscribed stock to the amount of \$1,000,000 00 on which, at least, five per cent. thereof shall have been expended in work done on said road and materials furnished on the ground; which shall be made to appear by a report of the State Engineer or by some skillful Engineer appointed by the State, on or before the 1st day of October next, or in default thereof the franchise herein granted shall cease and determine.

The committee on Internal Improvements, have considered the petition of Owen, Jones, Hulbur and Merrick, praying a charter for a Railroad company from some point between

Corpus Christi, to some point on the Rio Grande at or near Eagle Pass, and instruct me to recommend the rejection of the same.

The fact that no fixed points for the termini of said road are designated is an objection, especially as this road might conflict with other chartered companies.

Mr. Britton made the following report :

The committee on the Militia have considered a bill to authorize the purchase by the State of certain arms therein specified, and instruct me to report the accompanying amendment and recommend its adoption and the passage of the bill.

Add the following proviso.

*“ Provided, no cadet shall be charged more than two dollars during his term for the use of said arms.*

Mr. Potter made the following reports :

The committee on the Judiciary, have considered a bill supplemental to an act supplemental to and amendatory of an act to ascertain the legal claims for money and lands against the State, passed, August 1856, and instruct me to recommend its passage.

The Judiciary committee have considered a bill to provide for a Digest of the laws of Texas, and a majority of the committee instruct me to return the same to the Senate for its consideration. The general laws, with the exception of those of the last Legislature, are not to be had at any price not even one copy for the use of the Senate. From this state of facts there can be no question but that a re-publication of the General Laws is absolutely necessary.

The Judiciary committee have considered a House bill to amend an act to create the 15th Judicial District, provide for the election of a Judge, &c., &c., approved, January 21st, 1856, and instruct me to recommend the passage of the bill with the adoption of a substitute for section 2.

Mr. Taylor of Cass, introduced a bill to incorporate the Nash Iron, Steel and Copper manufacturing company in Cass county ; read first time.

On motion of Mr. Taylor of Cass, the rule was suspended bill read a second time and ordered to be engrossed—rule further suspended, bill read a third time and passed by the following vote :

YEAS—Messrs. Britton, Burroughs, Caldwell, Erath, Fall, Graham, Grimes, Guinn, Herbert, Lott, McCulloch, Martin,

Maverick, Paschal, Pedigo, Pirkey, Potter, Russell, Shepard, Stockdale, Tankersley, Taylor of Cass, Taylor of Houston, Truitt, Walker and Wren—26.

NAYS—None.

Mr. Martin introduced a bill to incorporate Athens College ; read first and second times and referred to the committee on the Judiciary.

Mr. Burroughs, introduced a bill for the relief of Walter Stropher ; read first and second times and referred to the committee on Private Land Claims.

Mr. McCulloch introduced a bill for the relief of the heirs of Jesse Summers, deceased ; read first and second times and referred to the committee on Private Land Claims.

Mr. Taylor of Cass moved to take up the resolution passed by the House of Representatives to adjourn *sine die*, on Monday February 8th, 1858—lost by the following vote :

YEAS—Messrs. Burroughs, Erath, Graham, Lott, Maverick, Paschal, Potter, Quinan, Russell, Tankersly, Taylor of Cass, Taylor of Houston, Truitt and Wren—15.

NAYS—Messrs. Britton, Caldwell, Fall, Grimes, Guinn, Herbert, Hyde, McCulloch, Scarborough, Stockdale, Taylor of Fannin, Throckmorton, Walker, Whaley and Wigfall—15.

Two-thirds being necessary to suspend the rules in order to take up the resolution.

Mr. Wigfall moved to take up the adjournment resolution of the Senate which had been amended by the House—lost.

On motion of Mr. Paschal, a bill for the relief of the creditors and Colonists of the German Emigration company, &c., &c., was taken from the table and placed among the orders of the day.

Mr. Potter made the following report :

The Judiciary committee have considered the Senate bill, to be entitled an act supplementary to, and amendatory of an act entitled an act to adopt and establish a Penal Code for the State of Texas, approved, 28th August, 1856, together with the House amendments to the same. The bill returned from the House, and which purports to be an amendment to the Senate bill, is in fact a substitute for it, and the committee see no way of adopting any portion of the House bill without taking it as a whole. There are some articles in the House bill which the committee would be willing to recommend to the favorable consideration of the Senate, were they proposed as amendments to the Senate bill in such manner as to adopt

them without adopting the entire House bill. The committee think that the House bill does not graduate punishments in a proper manner, nor in proportion to the turpitude of the offences to which the punishments are proposed to be applied. Also the death penalty is proposed to be inflicted on slaves for some offences which the committee think should not be made capital, whether the slave is to be considered as a person or property. There are other serious objections to the House bill which the committee do not think necessary to embody in this report. A majority of the committee direct me to return the bill, with the amendments of the House, to the Senate, and recommend that the Senate do not concur in the amendments of the House.

On motion of Mr. Potter the rule was suspended, report taken up, read and adopted.

On motion of Mr. Erath a bill to amend an act to organize the 17th and reorganize the 2nd Judicial District, with the report of the committee on the Judiciary offering an amendment thereto, was taken up, read, amendment adopted and bill passed to a third reading.

On motion of Mr. Erath, the rule was suspended, bill read a third time and passed.

#### ORDERS OF THE DAY.

On motion of Mr. McCulloch, the Joint Resolution proposing to call a convention to remodel the State Constitution, under consideration on Saturday last when the Senate adjourned, was laid on the table.

On motion of Mr. McCulloch, the bill making appropriations for the use and support of the State Government for the years 1858 and 1859, was taken up and read.

Mr. McCulloch moved to amend the bill by making the salaries of the Chief Clerks of the General Land Office and Comptrollers department, each, annually, \$1,400 00.

Mr. Russell moved to lay that motion on the table—lost by the following vote :

YEAS—Messrs. Burroughs, Fall, Grimes, Lott, Russell, Taylor, of Cass, Truitt, Walker, Whaley and Wren—10.

NAYS—Messrs. Caldwell, Erath, Graham, Guinn, Hyde, McCulloch, Maverick, Paschal, Pedigo, Pirkey, Potter, Quinn, Shepard Stockdale, Tankersly, Taylor of Mannin, Taylor of Houston, Throckmorton and Wigfall—19.

The amendment prevailed by the following vote :

YEAS—Messrs. Britton, Caldwell, Erath, Graham, Guinn, Herbert, Hyde, McCulloch, Martin, Maverick, Paschal, Pedigo, Pirkey, Potter, Scarborough, Shepard, Stockdale, Tankersly, Taylor of Fannin, Taylor of Houston, Throckmorton and Wigfall—22.

NAYS—Messrs. Fall, Grimes, Lott, Russell, Taylor of Cass, Truitt, Walker, Whaley and Wren—9.

Mr. Taylor of Cass, moved to amend the bill by making the salary of the Chief Clerk in the State Department, \$1,400 00 annually—carried by the following vote :

YEAS—Messrs. Britton, Graham, Guinn, Herbert, Hyde, Lott, McCulloch, Martin, Maverick, Paschal, Pirkey, Potter, Russell, Scarborough, Shepard, Stockdale, Tankersly, Taylor of Cass, Taylor of Fanin, Taylor of Houston, Throckmorton, and Wigfall—22.

NAYS—Messrs. Rurroughs, Caldwell, Erath, Fall, Grimes, Truitt, Whaley and Wren—8.

On motion of Mr. Potter, the bill was amended by adding.

For printing Supreme Court Reports for two years \$11,000 00 and for increase of Supreme Court Library to be expended under the direction of said Court, five hundred dollars for each branch of the Court.

The bill was then ordered to be engrossed.

On motion of Mr. Grimes, the rule was suspended, bill read a third time and passed.

On motion of Mr. Caldwell, House bills which had been reported back from committees, were taken up for action.

A bill for the relief of Goodwin Killian, was read and passed to a third reading—rule suspended bill read a third time and passed by the following vote :

YEAS.—Messrs. Britton, Burroughs, Caldwell, Erath, Graham, Grimes, Guinn, Herbert, Hyde, Lott, McCulloch, Martin, Maverick, Paschal, Pedigo, Potter, Quinan, Scarborough, Shepard, Stockdale, Tankersly, Taylor of Cass, Taylor of Houston, Throckmorton, Truitt, Walker, Wigfall and Wren—28.

NAYS.—Messrs. Fall and Russell—2.

A bill for the relief of Jose Maria Gonzales, with the report from the committee on the Judiciary offering amendments thereto was read and amendments adopted.

Upon the passage of the bill to a third reading, the yeas and nays stood as follows, viz :

YEAS.—Messrs. Britton, Caldwell, Herbert, Hyde, McCul-

loch, Maverick, Paschal Potter, Scarborough, Stockdale, Tankersly and Throckmorton—12.

NAYS.—Messrs Burroughs, Erath, Fall, Grimes, Guinn, Lott, Martin, Pirkey, Russell, Taylor of Cass, Taylor of Fannin, Taylor of Houston, Truitt, Walker and Wren—15.

So the bill was rejected.

Mr. McCulloch moved a reconsideration of the vote passing the general appropriation bill—lost.

A bill for the relief of C. K. Ham, read and passed to a third reading—rule suspended bill read a third time and passed.

A Joint Resolution requesting our Senators and Representatives in Congress to use their influence to procure a line of mail coaches, between Tyler and Waco, read and passed to a third reading—rule suspended, read a third time and passed.

A bill for the relief of Polly Guthrie and the heirs of Andrew Jones, deceased; read second time and passed to a third reading—rule suspended, read a third time and passed.

A bill for the relief of the heirs of Wm. Freer, deceased, with the report of the committee on Private Land Claims, offering an amendment thereto, was read, amendment adopted, and bill passed to a third reading—rule suspended bill read a third time and passed.

A bill for the relief of Henry Hilton; read and passed to a third reading—rule suspended, bill read a third time and passed.

A bill for the relief of Florinda Dixon; read and passed to a third reading—rule suspended, bill read a third time and passed:

A bill for the relief of Isaac N. Hitchcock, read, and passed to a third reading—rule suspended, bill read a third time and passed.

A bill for the relief of the heirs of Abner C. Davis; read and passed to a third reading—rule suspended, bill read a third time and passed.

A bill authorizing the cancellation of a certain contract for work to be done on Sabine river, upon the execution of a new one by the parties mentioned herein; read and passed to a third reading—rule suspended, bill read a third time and passed.

A bill for the relief of the several School Districts, Trustees

and Patrons ; read and passed to a third reading—rule suspended, bill read a third time and passed.

On motion of Mr. Taylor of Cass, the Senate adjourned until this evening at 7 o'clock.

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7 O'CLOCK, P. M.

The Senate met, roll called—quorum present.

Mr. Taylor of Houston, chairman of the committee on enrolled bills, reported the following bills correctly enrolled, properly signed and this day presented to the Governor.

A bill for the relief of James P. Gorman.

A bill for the relief of Harvey Trotter.

A bill for the relief of George R. Raines.

A bill for the relief of Mandred Woods.

A bill for the relief of D. Rowlett's heirs.

A bill to purchase the Alamo Monument.

A bill for the relief of Isaac N. Hitchcock.

A bill to legalize the location of the county site of Live Oak county, and

A bill to amend the 1st section of an act to create the county of Jack.

Mr. Taylor of Cass, introduced a bill to authorize the Commissioner of the General Land Office to charge fees in certain cases ; read first time.

On motion of Mr. Taylor of Cass, the rule was suspended, and bill read second time.

On motion of Mr. Potter, the bill was amended by striking out 25 cents and inserting in lieu thereof 50 cents.

The bill was then ordered to be engrossed—rule further suspended, bill read a third time and passed.

Mr. Paschal made the following reports :

The Judiciary committee have considered a bill more particularly to declare and define the Homestead exempt from forced sale, and instruct me to report a substitute therefor, and recommend its adoption and passage.

The Judiciary committee have considered a Joint Resolution proposing an amendment to the 37th section of the 7th article of the Constitution, with the amendment proposed thereto, and instruct me to report a substitute for the amendment as better expressing what was intended, but without re-



commending the passage or rejection of the Resolution amendment.

A message was received from the House informing the Senate that the House had passed the following bills originating in that body.

A bill to change the boundaries of Medina county.

A bill to amend an act to create the county of Llano.

A bill to amend an act to create the county of San Saba.

A bill to incorporate the Nueces Bridge and Turnpike company.

A bill for the relief of Wm. H. Jones.

A bill authorizing a change of a certificate in a certain case.

A bill granting to John Archer a pension for life.

A bill for the relief of John Reid.

A bill to incorporate the Freestone School Association.

A bill to incorporate the Navasoto Turnpike and Toll Bridge Company.

A bill for the relief of Thomas Cochrane.

A bill granting a pension to Juana Navarro Alsbury.

A bill for the relief of the heirs of Frederick Hemiger on their assignees.

A bill to incorporate the Tennessee Colony Masonic Institute.

A bill to amend the second section of an act to incorporate the town of Madison in the county of Orange.

Also a Senate bill to dispense with the use of scrolls and seals in certain cases.

And the following Senate bills with amendments:

A bill donating 320 acres of land to the county of Palo Pinto.

A bill further regulating proceedings in the District Courts.

And that the House refuses to recede from its amendments to a Senate bill to amend an act to establish a Penal Code for the State of Texas, and has appointed Messrs Jennings, Buckley, Cleveland, Powell and Wood, a committee of conference thereon and request a like committee on the part of the Senate.

The Senate then proceeded to the consideration of the special order for this time.

The Joint Resolution relative to the arrest of General Wm. Walker by Commodore Paulding, with the report of the majority and minority, of the select committee thereon.

On motion of Mr. Potter, the Resolutions were made the special order for to-morrow night, 7 o'clock.

On motion of Mr. Stockdale the Senate adjourned until to-morrow morning 10, o'clock.

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TUESDAY, February 2d, 1858.

The Senate met pursuant to adjournment—prayer by the chaplain—roll called—quorum present.

The Journal of yesterday was read and adopted.

Mr. Stockdale presented the petition of sundry citizens of Victoria county; referred to the committee on State Affairs.

Mr. Russell, Chairman of the committee on Engrossed Bills, reported the following bills correctly engrossed.

A bill regulating executions.

A bill to require the Commissioner of the General Land Office to charge fees in certain cases; and

A bill making an appropriation to defray the expenses of the State Government for the years 1858 and 1859.

On motion of Mr. Guinn, Mr. Taylor, of Houston, was excused from attendance upon the Senate from and after the 4th inst.

Mr. Martin made the following reports:

The Committee on Private Land Claims have considered a bill for the relief of Terresa Highsmith, and the committee are disposed to grant the relief sought; but as it is late in the session, and everything beginning to take the "quickstep" for adjournment, they will not report the facts, but recommend the passage of the bill as a "donation."

The Committee on Private Land Claims have considered a bill to pay Abner C. Davis for services in the army of the Republic of Texas, and, as it is a money claim, recommend its reference to the committee on Claims and Accounts.

The committee on Private Land Claims have considered a bill for the relief of John Gays' heirs, and instruct me to report that he was in the service in the year 1837, in Capt. J. M. Hall's company. I am, therefore, instructed to report the bill back to the Senate and recommend its passage, with the following amendment:

Add the following proviso: "Provided, that the certificate shall not be issued before September 1st, 1858."

The committee on Private Land Claims find that F. L.